

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 459 - SB 741

March 16, 2013

SUMMARY OF BILL: Requires the Department of Commerce and Insurance (TDCI) to regulate and establish requirements relating to repossession agencies and employees. Authorizes TDCI to require licensure of repossession agencies; adopt rules and regulations; create procedures for handling consumer complaints; and employ persons necessary to administer and enforce established requirements. Requires law enforcement agencies to submit a monthly invoice to each repossession agency that provided repossession notices to law enforcement. Requires the invoice to include a \$10 fee per notice with \$1 remaining with the law enforcement agency to offset administrative costs, and \$9 forwarded to the Department of Treasury for deposit into the newly created Collateral Recovery Administrative Fund. Requires possession of a license and recovery permit to repossess or attempt to repossess collateral. Establishes license and permit fees. Requires repossession agencies to authorize a criminal history record check of each applicant and to submit to TDCI two sets of fingerprints for each individual employed by the agency. Requires TDCI to submit one set of fingerprints to the Tennessee Bureau of Investigation and one to the Federal Bureau of Investigation. Requires the cost of the criminal background check to be included in the application fee. Authorizes TDCI to take disciplinary action against a license or permit holder, including imposing a fine not to exceed \$2,500 per violation. Specifies the procedure for renewal and revocation of licenses and permits. Requires an agency to file with TDCI a certification of insurance meeting certain requirements. Requires TDCI to create repossession forms, and maintain a roster of all licensees including those suspended or revoked in the past year. Creates a Class A misdemeanor for a first offense, and a Class E felony for a second or subsequent offense. Establishes a list of persons and entities exempt from these requirements.

ESTIMATED FISCAL IMPACT:

Increase State Revenue - \$558,800/ FY13-14/

Collateral Recovery Administrative (CRA) Fund

\$210,300/ FY14-15/CRA Fund

Exceeds \$387,600/FY15-16 and Biennially Thereafter/CRA Fund

Exceeds \$125,700/FY16-17 and Biennially Thereafter/CRA Fund

Increase State Expenditures - \$324,800/FY13-14/CRA Fund

\$278,200/FY14-15 /CRA Fund

\$274,200/FY15-16 and Subsequent Years/CRA Fund

\$5,700/Incarceration*

Increase Local Revenue – Net Impact - \$11,400/FY13-14 and Subsequent Years

Increase Local Expenditures – Not Significant

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Assumptions:

- TDCI will charge \$825 for a two-year recovery agency license. The Department anticipates issuing 300 agency licenses in FY13-14. The recurring biennial increase in state revenue is \$247,500 (\$825 license fee x 300 agencies).
- TDCI will charge \$250 for a two-year branch office license. The Department anticipates issuing 150 branch licenses in FY13-14. The recurring biennial increase in state revenue is \$37,500 (\$250 license fee x 150 branches).
- TDCI will charge \$75 for a one-year recovery agent permit. The Department anticipates issuing 450 agent permits. The one-time increase in state revenue is \$33,750 (\$75 license fee x 450 agent permits) in FY13-14.
- TDCI will charge \$75 for a one-year recovery agent intern permit. The Department anticipates issuing 50 intern permits. The one-time increase in state revenue is \$3,750 (\$75 license fee x 50 intern permits) in FY13-14.
- TDCI will charge a \$75 application fee for every license. The one-time increase in state revenue is \$71,250 [(300 agencies + 150 branches + 450 agents + 50 interns) x \$75 application fee] in FY13-14.
- TDCI will charge a \$300 fee per remote storage location registered by an agency. The Department anticipates registering 75 storage locations. The one-time increase in state revenue is \$22,500 (\$300 fee x 75 storage locations) in FY13-14.
- TDCI anticipates 25 agencies will seek licensure in FY14-15. The recurring biennial increase in state revenue is \$20,625 (\$825 fee x 25 agencies).
- TDCI anticipates 10 branch offices will seek licensure in FY14-15. The recurring biennial increase in state revenue is \$2,500 (\$250 fee x 10 branches).
- TDCI anticipates 75 percent, or 338, of agent permits will be renewed in FY14-15. The one-time increase in state revenue is \$25,350 (\$75 fee x 338 agents).
- TDCI anticipates 75 percent, or 38, intern permits will be renewed in FY14-15. The one-time increase in state revenue is \$2,850 (\$75 fee x 38 interns).
- TDCI anticipates 50 agents will seek an initial license in FY14-15. The one-time increase in state revenue is \$41,250 (\$825 fee x 50 agents).
- TDCI anticipates 10 interns will seek an initial license in FY14-15. The one-time increase in state revenue is \$2,500 (\$250 x 10 interns).
- The one-time increase in state revenue from initial application fees is \$7,125 [(25 agencies + 10 branches + 50 agents + 10 interns) x \$75 application fee] in FY14-15.
- TDCI anticipates agencies will register five storage facilities in FY14-15. The one-time increase in state revenue is \$1,500 (\$300 fee x 5 storage locations).
- The Department will begin receiving complaints in FY14-15. Approximately 15 complaints will require hearings each year, resulting in a recurring increase in state expenditures of \$10,000 for investigations and legal costs.
- TDCI will hire one administrative assistant 3 (AA), one licensing technician (LT), and two investigators (Inv.) to implement the provisions of this bill.
- The recurring increase in state expenditures is \$198,578 {(\$37,848 AA salary + \$11,689 AA benefits) + (\$28,332 LT salary + \$10,258 LT benefits) + [(\$37,848 Inv. Salary + \$11,689 Inv. benefits) x 2 positions]} in FY13-14.

- The recurring administrative cost per position is \$15,000, resulting in a recurring increase in state expenditures of \$60,000 (\$15,000 x 4 positions) in FY13-14.
- TDCI will purchase computers and printers for the new employees. The one-time increase in state expenditures is \$8,700 in FY13-14.
- TDIC will purchase office furniture and telephones. The one-time increase in state expenditures is \$12,000 in FY13-14.
- The recurring increase in state expenditures for telephone service is \$4,000.
- TDCI will incur wireless connection costs for the two investigators. The recurring increase in state expenditures is \$1,600.
- The cost for a background check by the Tennessee Bureau of Investigation (TBI) is \$42.
- The one-time increase in state expenditures to conduct the background checks is \$39,900 (\$42 x 950 applicants) in FY13-14.
- The applicant is required to pay the cost of the background check. Therefore, the one-time increase in state revenue is \$39,900.
- According to the TBI, the increase in state expenditures in FY14-15 is \$3,990 (\$42 x 95 applicants).
- The applicant will pay the cost; therefore the increase in state revenue in FY14-15 is \$3,990.
- A repossession agency must pay \$10 per repossession notice submitted to local law enforcement. It is estimated that 10 notices will be submitted per-county-per-month in FY13-14 and subsequent years.
- Local law enforcement will submit \$9.00 per repossession notice submission to the Collateral Recovery Administrative Fund. The recurring increase in state revenue is approximately \$102,600 (\$9.00 fee x 10 notices x 95 counties x 12 months). Any cost incurred to submit the funds to the state will not be significant.
- Local law enforcement agencies will receive the remaining \$1.00 per repossession notice submitted by a repossession agency. The recurring net increase in local revenue is approximately \$11,400 (\$1.00 x 10 notices x 95 counties x 12 months).
- The total increase in state revenue in FY13-14 is \$558,750 (\$247,500 recovery licenses + \$37,500 branch office licenses + \$33,750 agent permits + \$3,750 intern permits + \$71,250 application fees + \$22,500 storage locations + \$39,900 background checks + \$102,600 local submissions).
- The total increase in state revenue in FY14-15 is \$210,290 (\$20,625 agency licenses + \$2,500 branch office licenses + \$25,350 agent renewals + \$2,850 intern renewals + \$41,250 agent permits + \$2,500 intern permits + \$7,125 application fees + \$1,500 storage locations + \$3,990 background checks + \$102,600 local submissions).
- Beginning in FY15-16 and biennially thereafter, the total increase in state revenue will be at least \$387,600 (\$247,500 agency licenses + \$37,500 branch licenses + \$102,600 local submissions).
- Beginning in FY16-17 and biennially thereafter, the total increase in state revenue will be at least \$125,725 (\$20,625 agency licenses + \$2,500 branch licenses + \$102,600 local submissions).
- The total increase in state expenditures in FY13-14 is \$324,778 (\$198,578 salaries + \$60,000 administrative costs + \$4,000 phones + \$1,600 wireless + \$8,700 computers + \$12,000 landscaping + \$39,900 background checks).

- The total increase in state expenditures in FY14-15 and subsequent years will be \$278,168 (\$198,578 salaries + \$60,000 administrative costs + \$4,000 phones + \$1,600 wireless + \$10,000 hearings + \$3,990 background checks).
- The total recurring increase in FY15-16 and subsequent years is estimated to be \$274,178 (\$198,578 salaries + \$60,000 administrative costs + \$4,000 phones + \$1,600 wireless + \$10,000 hearings).
- The total recurring increase in local revenue is \$11,400 beginning in FY13-14.
- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.
- The Department of Correction (DOC) estimates one person every five years will receive a Class E felony rather than a misdemeanor conviction for a second or subsequent offense.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one Class E offender every five years.
- According to DOC, the average operating cost per offender per day for calendar year 2012 is \$64.17. The average post-conviction time served for a Class E felony is 1.21 years (441.95 days) at a cost of \$28,360 (\$64.17 x 441.95 days). The annualized cost per offender is \$5,672 (\$28,360 / 5 years).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/jdb